

Proposed Second Substitute House Bill 1110 (H-1404.2)

House Appropriations Committee

By Representative Macri

Substitute Bill (as recommended by Housing Committee):

- Requires certain cities planning under the Growth Management Act to allow minimum development densities in residential zones and include specific provisions related to middle housing in their development regulations.
- Requires the Department of Commerce to provide technical assistance to cities in implementing middle housing requirements, develop model middle housing ordinances, approve existing local development regulations as substantially equivalent, and grant extensions to implementation timelines for certain infrastructure deficiencies.

Proposed Second Substitute House Bill (H-1404.2) compared to the Substitute House Bill (as recommended by the Housing Committee):

- Requires the units dedicated as affordable to be comparable in size and number of bedrooms as other units in the development and be generally distributed throughout the development, instead of having the same average square footage of market rate units on the same lot.
- Allows cities with an affordable housing incentive program in place prior to January 1, 2023, to vary from the minimum density requirements and offer affordable units under the terms of their program, including providing affordable housing through an in-lieu payment.
- Changes the exemption from the off-street parking limits by requiring a jurisdiction to submit to the Department of Commerce (Commerce) an empirical study prepared by a credentialed transportation or land use planning expert that clearly demonstrates, and Commerce finds and certifies, that the application of the off-street parking requirements for middle housing will be significantly less safe for the traveling public than if the jurisdiction's parking requirements were applied to the same location for the same number of detached houses.
- Changes the requirements for a city to demonstrate substantial equivalency with the provisions of the Act by specifying a jurisdiction must have, by January 1, 2023, adopted a comprehensive plan and, within one year of the effective date of the Act, must adopt permanent development regulations that: (1) result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of this Act were adopted; (2) allow for middle housing throughout the city, rather than just in targeted locations; and (3) allow for additional density near major transit stops, schools, and parks and in projects that incorporate dedicated affordable housing.
- Allows Commerce to approve a two-year extension to the minimum density allowance in specific areas where a city can demonstrate water, sewer, or stormwater services lack capacity to accommodate the density.
- Provides a categorical exemption from the State Environmental Policy Act for development regulations that remove parking requirements for infill development.
- Allows Commerce to establish by rule any standards or procedures to implement the Act.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: H-1404.2/23 2nd draft

ATTY/TYPIST: MFW:eab

BRIEF DESCRIPTION: Increasing middle housing in areas traditionally dedicated to single-family detached housing.

1 AN ACT Relating to creating more homes for Washington by
2 increasing middle housing in areas traditionally dedicated to single-
3 family detached housing; amending RCW 36.70A.030, 36.70A.280,
4 43.21C.495, and 43.21C.229; adding new sections to chapter 36.70A
5 RCW; adding a new section to chapter 64.34 RCW; adding a new section
6 to chapter 64.32 RCW; adding a new section to chapter 64.38 RCW;
7 adding new sections to chapter 64.90 RCW; and creating a new section.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** The legislature finds that Washington is
10 facing an unprecedented housing shortage for its current population
11 and without significant action will not meet its goal of creating
12 1,000,000 homes by 2044.

13 Increasing housing options that are more affordable to various
14 income levels is critical to achieving the state's housing goals,
15 including those codified by the legislature under chapter 254, Laws
16 of 2021.

17 There is continued need for the development of housing at all
18 income levels, including middle housing that will provide a wider
19 variety of housing options and configurations to allow Washingtonians
20 to live near where they work.

1 To unlock opportunity for Washingtonians it is necessary to lift
2 bans on the development of modest home choices in cities near job
3 centers, transit, and amenity-rich neighborhoods.

4 Homes developed at higher densities and gentle density housing
5 types are more affordable by design for Washington residents both in
6 their construction and reduced household energy and transportation
7 costs.

8 While creating more housing options, it is essential for cities
9 to identify areas at higher risk of displacement and establish
10 antidisplacement policies as required in Engrossed Second Substitute
11 House Bill No. 1220 (chapter 254, Laws of 2021).

12 The state has made historic investments in subsidized affordable
13 housing through the housing trust fund, yet even with these historic
14 investments, the magnitude of the housing shortage requires both
15 public and private investment.

16 In addition to addressing the housing shortage, allowing more
17 housing options in areas already served by urban infrastructure will
18 reduce the pressure to develop natural and working lands, support key
19 strategies for climate change, food security, and Puget Sound
20 recovery, and save taxpayers and ratepayers money.

21 **Sec. 2.** RCW 36.70A.030 and 2021 c 254 s 6 are each amended to
22 read as follows:

23 Unless the context clearly requires otherwise, the definitions in
24 this section apply throughout this chapter.

25 (1) "Administrative design review" means a development permit
26 process whereby an application is reviewed, approved, or denied by
27 the planning director or the planning director's designee based
28 solely on objective design and development standards without a public
29 meeting or hearing, unless such review is otherwise required by state
30 or federal law or the structure is listed on a local historic
31 register through a local preservation ordinance.

32 (2) "Adopt a comprehensive land use plan" means to enact a new
33 comprehensive land use plan or to update an existing comprehensive
34 land use plan.

35 ((+2)) (3) "Affordable housing" means, unless the context
36 clearly indicates otherwise, residential housing whose monthly costs,
37 including utilities other than telephone, do not exceed thirty
38 percent of the monthly income of a household whose income is:

1 (a) For rental housing, sixty percent of the median household
2 income adjusted for household size, for the county where the
3 household is located, as reported by the United States department of
4 housing and urban development; or

5 (b) For owner-occupied housing, eighty percent of the median
6 household income adjusted for household size, for the county where
7 the household is located, as reported by the United States department
8 of housing and urban development.

9 ~~((+3+))~~ (4) "Agricultural land" means land primarily devoted to
10 the commercial production of horticultural, viticultural,
11 floricultural, dairy, apiary, vegetable, or animal products or of
12 berries, grain, hay, straw, turf, seed, Christmas trees not subject
13 to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish
14 in upland hatcheries, or livestock, and that has long-term commercial
15 significance for agricultural production.

16 ~~((+4+))~~ (5) "City" means any city or town, including a code city.

17 ~~((+5+))~~ (6) "Community amenity" means:

18 (a) A public school as defined in RCW 28A.150.010, a common
19 school as defined in RCW 28A.150.020, or a private school approved
20 under RCW 28A.195.010; or

21 (b) A designated entrance or pedestrian access point to a park
22 operated by the state or a local government for the use of the
23 general public.

24 (7) "Comprehensive land use plan," "comprehensive plan," or
25 "plan" means a generalized coordinated land use policy statement of
26 the governing body of a county or city that is adopted pursuant to
27 this chapter.

28 ~~((+6+))~~ (8) "Cottage housing" means detached dwelling units
29 arranged on two or more sides of a landscaped central area.

30 (9) "Courtyard apartments" means attached dwelling units arranged
31 on two or more sides of a landscaped central courtyard.

32 (10) "Critical areas" include the following areas and ecosystems:

33 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
34 used for potable water; (c) fish and wildlife habitat conservation
35 areas; (d) frequently flooded areas; and (e) geologically hazardous
36 areas. "Fish and wildlife habitat conservation areas" does not
37 include such artificial features or constructs as irrigation delivery
38 systems, irrigation infrastructure, irrigation canals, or drainage
39 ditches that lie within the boundaries of and are maintained by a
40 port district or an irrigation district or company.

~~((7))~~ (11) "Department" means the department of commerce.

~~((8))~~ (12) "Development regulations" or "regulation" means the controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county or city.

~~((9))~~ (13) "Emergency housing" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that is intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement.

~~((10))~~ (14) "Emergency shelter" means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

~~((11))~~ (15) "Extremely low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below thirty percent of the median household income adjusted for household size, for the county where the household is located, as reported by the United States department of housing and urban development.

~~((12))~~ (16) "Forestland" means land primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, and that has long-term commercial significance. In determining whether forestland is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and

1 nearby land uses; (c) long-term local economic conditions that affect
2 the ability to manage for timber production; and (d) the availability
3 of public facilities and services conducive to conversion of
4 forestland to other uses.

5 ~~((13))~~ (17) "Freight rail dependent uses" means buildings and
6 other infrastructure that are used in the fabrication, processing,
7 storage, and transport of goods where the use is dependent on and
8 makes use of an adjacent short line railroad. Such facilities are
9 both urban and rural development for purposes of this chapter.
10 "Freight rail dependent uses" does not include buildings and other
11 infrastructure that are used in the fabrication, processing, storage,
12 and transport of coal, liquefied natural gas, or "crude oil" as
13 defined in RCW 90.56.010.

14 ~~((14))~~ (18) "Geologically hazardous areas" means areas that
15 because of their susceptibility to erosion, sliding, earthquake, or
16 other geological events, are not suited to the siting of commercial,
17 residential, or industrial development consistent with public health
18 or safety concerns.

19 ~~((15))~~ (19) "Long-term commercial significance" includes the
20 growing capacity, productivity, and soil composition of the land for
21 long-term commercial production, in consideration with the land's
22 proximity to population areas, and the possibility of more intense
23 uses of the land.

24 ~~((16))~~ (20) "Low-income household" means a single person,
25 family, or unrelated persons living together whose adjusted income is
26 at or below eighty percent of the median household income adjusted
27 for household size, for the county where the household is located, as
28 reported by the United States department of housing and urban
29 development.

30 ~~((17))~~ (21)(a) "Major transit stop," except as provided in (b)
31 of this subsection, means:

32 (i) A stop on a high capacity transportation system funded or
33 expanded under the provisions of chapter 81.104 RCW;

34 (ii) Commuter rail stops;

35 (iii) Stops on rail or fixed guideway systems, including
36 transitways; or

37 (iv) Stops on bus rapid transit routes.

38 (b) Alternatively, a definition of "major transit stop" adopted
39 before the effective date of this section by a regional agency
40 planning under the multicounty planning policies authority pursuant

1 to RCW 36.70A.210(7) shall apply to counties and cities which are
2 subject to those multicounty planning policies.

3 (22) "Middle housing" means buildings that are compatible in
4 scale, form, and character with single-family houses and contain two
5 or more attached, stacked, or clustered homes including duplexes,
6 triplexes, fourplexes, fiveplexes, sixplexes, townhouses, courtyard
7 apartments, and cottage housing.

8 (23) "Minerals" include gravel, sand, and valuable metallic
9 substances.

10 ~~((18))~~ (24) "Moderate-income household" means a single person,
11 family, or unrelated persons living together whose adjusted income is
12 at or below 120 percent of the median household income adjusted for
13 household size, for the county where the household is located, as
14 reported by the United States department of housing and urban
15 development.

16 ~~((19))~~ (25) "Permanent supportive housing" is subsidized,
17 leased housing with no limit on length of stay that prioritizes
18 people who need comprehensive support services to retain tenancy and
19 utilizes admissions practices designed to use lower barriers to entry
20 than would be typical for other subsidized or unsubsidized rental
21 housing, especially related to rental history, criminal history, and
22 personal behaviors. Permanent supportive housing is paired with on-
23 site or off-site voluntary services designed to support a person
24 living with a complex and disabling behavioral health or physical
25 health condition who was experiencing homelessness or was at imminent
26 risk of homelessness prior to moving into housing to retain their
27 housing and be a successful tenant in a housing arrangement, improve
28 the resident's health status, and connect the resident of the housing
29 with community-based health care, treatment, or employment services.
30 Permanent supportive housing is subject to all of the rights and
31 responsibilities defined in chapter 59.18 RCW.

32 ~~((20))~~ (26) "Public facilities" include streets, roads,
33 highways, sidewalks, street and road lighting systems, traffic
34 signals, domestic water systems, storm and sanitary sewer systems,
35 parks and recreational facilities, and schools.

36 ~~((21))~~ (27) "Public services" include fire protection and
37 suppression, law enforcement, public health, education, recreation,
38 environmental protection, and other governmental services.

39 ~~((22))~~ (28) "Recreational land" means land so designated under
40 RCW 36.70A.1701 and that, immediately prior to this designation, was

1 designated as agricultural land of long-term commercial significance
2 under RCW 36.70A.170. Recreational land must have playing fields and
3 supporting facilities existing before July 1, 2004, for sports played
4 on grass playing fields.

5 ~~((+23+))~~ (29) "Rural character" refers to the patterns of land
6 use and development established by a county in the rural element of
7 its comprehensive plan:

8 (a) In which open space, the natural landscape, and vegetation
9 predominate over the built environment;

10 (b) That foster traditional rural lifestyles, rural-based
11 economies, and opportunities to both live and work in rural areas;

12 (c) That provide visual landscapes that are traditionally found
13 in rural areas and communities;

14 (d) That are compatible with the use of the land by wildlife and
15 for fish and wildlife habitat;

16 (e) That reduce the inappropriate conversion of undeveloped land
17 into sprawling, low-density development;

18 (f) That generally do not require the extension of urban
19 governmental services; and

20 (g) That are consistent with the protection of natural surface
21 water flows and groundwater and surface water recharge and discharge
22 areas.

23 ~~((+24+))~~ (30) "Rural development" refers to development outside
24 the urban growth area and outside agricultural, forest, and mineral
25 resource lands designated pursuant to RCW 36.70A.170. Rural
26 development can consist of a variety of uses and residential
27 densities, including clustered residential development, at levels
28 that are consistent with the preservation of rural character and the
29 requirements of the rural element. Rural development does not refer
30 to agriculture or forestry activities that may be conducted in rural
31 areas.

32 ~~((+25+))~~ (31) "Rural governmental services" or "rural services"
33 include those public services and public facilities historically and
34 typically delivered at an intensity usually found in rural areas, and
35 may include domestic water systems(~~(7)~~) and fire and police
36 protection services(~~(, transportation and public transit services,~~
37 ~~and other public utilities)~~) associated with rural development and
38 normally not associated with urban areas. Rural services do not
39 include storm or sanitary sewers, except as otherwise authorized by
40 RCW 36.70A.110(4).

1 ~~((+26+))~~ (32) "Short line railroad" means those railroad lines
2 designated class II or class III by the United States surface
3 transportation board.

4 ~~((+27+))~~ (33) "Townhouses" means dwelling units constructed in a
5 row of two or more attached units where each dwelling unit shares at
6 least one common wall with an adjacent unit and is accessed by a
7 separate outdoor entrance.

8 (34) "Urban governmental services" or "urban services" include
9 those public services and public facilities at an intensity
10 historically and typically provided in cities, specifically including
11 storm and sanitary sewer systems, domestic water systems, street
12 cleaning services, fire and police protection services, public
13 transit services, and other public utilities associated with urban
14 areas and normally not associated with rural areas.

15 ~~((+28+))~~ (35) "Urban growth" refers to growth that makes
16 intensive use of land for the location of buildings, structures, and
17 impermeable surfaces to such a degree as to be incompatible with the
18 primary use of land for the production of food, other agricultural
19 products, or fiber, or the extraction of mineral resources, rural
20 uses, rural development, and natural resource lands designated
21 pursuant to RCW 36.70A.170. A pattern of more intensive rural
22 development, as provided in RCW 36.70A.070(5)(d), is not urban
23 growth. When allowed to spread over wide areas, urban growth
24 typically requires urban governmental services. "Characterized by
25 urban growth" refers to land having urban growth located on it, or to
26 land located in relationship to an area with urban growth on it as to
27 be appropriate for urban growth.

28 ~~((+29+))~~ (36) "Urban growth areas" means those areas designated
29 by a county pursuant to RCW 36.70A.110.

30 ~~((+30+))~~ (37) "Very low-income household" means a single person,
31 family, or unrelated persons living together whose adjusted income is
32 at or below fifty percent of the median household income adjusted for
33 household size, for the county where the household is located, as
34 reported by the United States department of housing and urban
35 development.

36 ~~((+31+))~~ (38) "Wetland" or "wetlands" means areas that are
37 inundated or saturated by surface water or groundwater at a frequency
38 and duration sufficient to support, and that under normal
39 circumstances do support, a prevalence of vegetation typically
40 adapted for life in saturated soil conditions. Wetlands generally

1 include swamps, marshes, bogs, and similar areas. Wetlands do not
2 include those artificial wetlands intentionally created from
3 nonwetland sites, including, but not limited to, irrigation and
4 drainage ditches, grass-lined swales, canals, detention facilities,
5 wastewater treatment facilities, farm ponds, and landscape amenities,
6 or those wetlands created after July 1, 1990, that were
7 unintentionally created as a result of the construction of a road,
8 street, or highway. Wetlands may include those artificial wetlands
9 intentionally created from nonwetland areas created to mitigate
10 conversion of wetlands.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70A
12 RCW to read as follows:

13 (1) Any city that is required or chooses to plan under RCW
14 36.70A.040 must provide by ordinance and incorporate into its
15 development regulations, zoning regulations, and other official
16 controls, authorization for the following:

17 (a) For cities with a population of at least 25,000 but less than
18 75,000 based on office of financial management population estimates:

19 (i) The development of at least two units per lot on all lots
20 zoned predominantly for residential use;

21 (ii) The development of at least four units per lot on all lots
22 zoned predominantly for residential use within one-half mile walking
23 distance of a major transit stop or community amenity; and

24 (iii) The development of at least four units per lot on all lots
25 zoned predominantly for residential use if at least one unit is
26 affordable housing.

27 (b) For cities with a population of at least 75,000, or any city
28 within a contiguous urban growth area with a city with a population
29 above 200,000, based on office of financial management population
30 estimates:

31 (i) The development of at least four units per lot on all lots
32 zoned predominantly for residential use;

33 (ii) The development of at least six units per lot on all lots
34 zoned predominantly for residential use within one-half mile walking
35 distance of a major transit stop or community amenity; and

36 (iii) The development of at least six units per lot on all lots
37 zoned predominantly for residential use if at least two units are
38 affordable housing.

1 (2)(a) To qualify for the additional units allowed under
2 subsection (1) of this section, the applicant must commit to renting
3 or selling the required number of units as affordable housing. The
4 units must be maintained as affordable for a term of at least 50
5 years, and the property must satisfy that commitment and all required
6 affordability and income eligibility conditions adopted by the local
7 government under this chapter. A city must require the applicant to
8 record a covenant or deed restriction that ensures the continuing
9 rental of units subject to these affordability requirements
10 consistent with the conditions in chapter 84.14 RCW for a period of
11 no less than 50 years. The covenant or deed restriction must also
12 address criteria and policies to maintain public benefit if the
13 property is converted to a use other than which continues to provide
14 for permanently affordable low-income housing.

15 (b) The units dedicated as affordable must be provided in a range
16 of sizes comparable to other units in the development. To the extent
17 practicable, the number of bedrooms in affordable units must be in
18 the same proportion as the number of bedrooms in units within the
19 entire development. The affordable units must generally be
20 distributed throughout the development and have substantially the
21 same functionality as the other units in the development.

22 (c) If a city enacted a program under RCW 36.70A.540 prior to
23 January 1, 2023, the terms of that program govern the extent they
24 vary from the requirements of this subsection.

25 (3) If a city has enacted a program under RCW 36.70A.540 prior to
26 January 1, 2023, subsection (1) of this section does not preclude the
27 city from requiring any development, including development described
28 in subsection (2) of this section, to provide affordable housing,
29 either on-site or through an in-lieu payment.

30 (4) Any combination of middle housing types must be allowed to
31 achieve the unit density required in subsection (1) of this section.

32 (5) Any city subject to the requirements of this section:

33 (a) May only adopt objective development and design standards on
34 the development of middle housing;

35 (b) May only apply administrative design review;

36 (c) Except as provided in (a) of this subsection, shall not
37 require through development regulations any standards for middle
38 housing that are more restrictive than those required for detached
39 single-family residences;

1 (d) Shall apply to middle housing the same development permit and
2 environmental review processes that apply to detached single-family
3 residences, unless otherwise required by state law including, but not
4 limited to, shoreline regulations under chapter 90.58 RCW, building
5 codes under chapter 19.27 RCW, energy codes under chapter 19.27A RCW,
6 or electrical codes under chapter 19.28 RCW;

7 (e) Shall not require off-street parking as a condition of
8 permitting development of middle housing within one-half mile walking
9 distance of a major transit stop;

10 (f) Shall not require more than one off-street parking space per
11 unit as a condition of permitting development of middle housing on
12 lots smaller than 6,000 square feet; and

13 (g) Shall not require more than two off-street parking spaces per
14 unit as a condition of permitting development of middle housing on
15 lots greater than 6,000 square feet.

16 (6) The provisions of subsection (5)(e) through (g) of this
17 section do not apply if a local government submits to the department
18 an empirical study prepared by a credentialed transportation or land
19 use planning expert that clearly demonstrates, and the department
20 finds and certifies, that the application of the parking requirements
21 of subsection (5)(e) through (g) of this section for middle housing
22 will be significantly less safe for the traveling public than if the
23 jurisdiction's parking requirements were applied to the same location
24 for the same number of detached houses. The department must develop
25 guidance to assist cities on items to include in the study.

26 (7) The provisions of this section do not apply to lots
27 designated with critical areas or their buffers as designated in RCW
28 36.70A.060.

29 (8) Nothing in this section prohibits a city from permitting
30 detached single-family residences.

31 (9) A city must comply with the requirements of this section on
32 the latter of:

33 (a) Six months after its next periodic comprehensive plan update
34 required under RCW 36.70A.130; or

35 (b) 12 months after a determination by the office of financial
36 management that the city has reached a population threshold
37 established under this section.

38 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70A
39 RCW to read as follows:

Population associated with permits for middle housing units are exempt from the threshold of an office of financial management population projection to a county or a county population allocation to a city.

NEW SECTION. **Sec. 5.** A new section is added to chapter 36.70A RCW to read as follows:

(1)(a) The department is directed to provide technical assistance to cities as they implement the requirements under section 3 of this act.

(b) The department shall prioritize such technical assistance to cities demonstrating the greatest need.

(2)(a) The department shall publish model middle housing ordinances no later than six months following the effective date of this section.

(b) In any city subject to section 3 of this act that has not passed ordinances, regulations, or other official controls within the time frames provided under section 3(9) of this act, the model ordinance supersedes, preempts, and invalidates local development regulations until the city takes all actions necessary to implement section 3 of this act.

(3)(a) The department is directed to establish a process by which cities implementing the requirements of section 3 of this act may seek approval of alternative local action necessary to meet the requirements of this act.

(b) The department may approve actions under this section for cities that have, by January 1, 2023, adopted a comprehensive plan that is substantially similar to the requirements of this act and, within one year of the effective date of this section, adopts permanent development regulations that are substantially similar to the requirements of this act. In determining whether a city's adopted comprehensive plan and permanent development regulations are substantially similar, the department must find as substantially similar plans and regulations that:

(i) Result in an overall increase in housing units allowed in single-family zones that is at least 75 percent of the increase in housing units allowed in single-family zones if the specific provisions of this act were adopted;

(ii) Allow for middle housing throughout the city, rather than just in targeted locations; and

(iii) Allow for additional density near major transit stops and community amenities, and for projects that incorporate dedicated affordable housing.

(c) The department may determine that a comprehensive plan and development regulations that do not meet these criteria are otherwise substantially similar to the requirements of this act if the city can clearly demonstrate that the regulations adopted will result in a greater increase in housing production within existing urban areas.

(d) Any local actions approved by the department pursuant to (a) of this subsection to implement the requirements under section 3 of this act are exempt from appeals under this chapter and chapter 43.21C RCW.

(e) The department's final decision to approve or reject actions by cities implementing section 3 of this act may be appealed to the growth management hearings board by filing a petition as provided in RCW 36.70A.290.

(4) For the purpose of this section, "single-family zones" means those zones where single-family detached housing is the predominate land use.

NEW SECTION. **Sec. 6.** A new section is added to chapter 36.70A RCW to read as follows:

Any city subject to the requirements of section 3 of this act may apply to the department for, and the department may certify, an extension for areas at risk of displacement as determined by the antidisplacement analysis that a jurisdiction is required to complete under RCW 36.70A.070(2). The city must create a plan for implementing antidisplacement policies by their next implementation progress report required by RCW 36.70A.130(9).

Sec. 7. RCW 36.70A.280 and 2011 c 360 s 17 are each amended to read as follows:

(1) The growth management hearings board shall hear and determine only those petitions alleging either:

(a) That, except as provided otherwise by this subsection, a state agency, county, or city planning under this chapter is not in compliance with the requirements of this chapter, chapter 90.58 RCW as it relates to the adoption of shoreline master programs or amendments thereto, or chapter 43.21C RCW as it relates to plans, development regulations, or amendments, adopted under RCW 36.70A.040

1 or chapter 90.58 RCW. Nothing in this subsection authorizes the board
2 to hear petitions alleging noncompliance with RCW 36.70A.5801;

3 (b) That the twenty-year growth management planning population
4 projections adopted by the office of financial management pursuant to
5 RCW 43.62.035 should be adjusted;

6 (c) That the approval of a work plan adopted under RCW
7 36.70A.735(1)(a) is not in compliance with the requirements of the
8 program established under RCW 36.70A.710;

9 (d) That regulations adopted under RCW 36.70A.735(1)(b) are not
10 regionally applicable and cannot be adopted, wholly or partially, by
11 another jurisdiction; ((or))

12 (e) That a department certification under RCW 36.70A.735(1)(c) is
13 erroneous; or

14 (f) That the department's final decision to approve or reject
15 actions by a city implementing section 3 of this act is erroneous.

16 (2) A petition may be filed only by: (a) The state, or a county
17 or city that plans under this chapter; (b) a person who has
18 participated orally or in writing before the county or city regarding
19 the matter on which a review is being requested; (c) a person who is
20 certified by the governor within sixty days of filing the request
21 with the board; or (d) a person qualified pursuant to RCW 34.05.530.

22 (3) For purposes of this section "person" means any individual,
23 partnership, corporation, association, state agency, governmental
24 subdivision or unit thereof, or public or private organization or
25 entity of any character.

26 (4) To establish participation standing under subsection (2)(b)
27 of this section, a person must show that his or her participation
28 before the county or city was reasonably related to the person's
29 issue as presented to the board.

30 (5) When considering a possible adjustment to a growth management
31 planning population projection prepared by the office of financial
32 management, the board shall consider the implications of any such
33 adjustment to the population forecast for the entire state.

34 The rationale for any adjustment that is adopted by the board
35 must be documented and filed with the office of financial management
36 within ten working days after adoption.

37 If adjusted by the board, a county growth management planning
38 population projection shall only be used for the planning purposes
39 set forth in this chapter and shall be known as the "board adjusted
40 population projection." None of these changes shall affect the

1 official state and county population forecasts prepared by the office
2 of financial management, which shall continue to be used for state
3 budget and planning purposes.

4 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.70A
5 RCW to read as follows:

6 (1) Any city subject to the requirements under section 3 of this
7 act may apply to the department for, and the department may certify,
8 an extension of the implementation timelines that does not exceed two
9 years.

10 (2) An extension certified under this section may be applied only
11 to specific areas where a city can demonstrate that water, sewer, or
12 stormwater services lack capacity to accommodate the density required
13 in section 3 of this act. In determining whether to certify the
14 requested extension, the department may retain, at the requesting
15 city's expense, the services of a third-party engineering firm to
16 submit to the department a peer review of the city's request for
17 extension. The department may certify an extension request only if it
18 is persuaded by clear and convincing evidence that an extension is
19 warranted.

20 **Sec. 9.** RCW 43.21C.495 and 2022 c 246 s 3 are each amended to
21 read as follows:

22 (1) Adoption of ordinances, development regulations and
23 amendments to such regulations, and other nonproject actions taken by
24 a city to implement: The actions specified in section 2, chapter 246,
25 Laws of 2022 unless the adoption of such ordinances, development
26 regulations and amendments to such regulations, or other nonproject
27 actions has a probable significant adverse impact on fish habitat;
28 and the increased residential building capacity actions identified in
29 RCW 36.70A.600(1), with the exception of the action specified in RCW
30 36.70A.600(1)(f), are not subject to administrative or judicial
31 appeals under this chapter.

32 (2) Amendments to development regulations and other nonproject
33 actions taken by a city to implement the requirements under section 3
34 of this act pursuant to section 5(3)(b) of this act are not subject
35 to administrative or judicial appeals under this chapter.

36 **Sec. 10.** RCW 43.21C.229 and 2020 c 87 s 1 are each amended to
37 read as follows:

(1) In order to accommodate infill development and thereby realize the goals and policies of comprehensive plans adopted according to chapter 36.70A RCW, a city or county planning under RCW 36.70A.040 is authorized by this section to establish categorical exemptions from the requirements of this chapter. An exemption adopted under this section applies even if it differs from the categorical exemptions adopted by rule of the department under RCW 43.21C.110(1)(a). An exemption may be adopted by a city or county under this section if it meets the following criteria:

(a) It categorically exempts ~~((government))~~:

(i) Government action related to development proposed to fill in an urban growth area, designated according to RCW 36.70A.110, where current density and intensity of use in the area is roughly equal to or lower than called for in the goals and policies of the applicable comprehensive plan and the development is either:

~~((i))~~ (A) Residential development;

~~((ii))~~ (B) Mixed-use development; or

~~((iii))~~ (C) Commercial development up to sixty-five thousand square feet, excluding retail development; or

(ii) Government action to amend development regulations to remove requirements for parking from development proposed to fill in an urban growth area designated according to RCW 36.70A.110.

(b) It does not exempt government action related to development that is inconsistent with the applicable comprehensive plan or would clearly exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan;

(c) The local government considers the specific probable adverse environmental impacts of the proposed action and determines that these specific impacts are adequately addressed by the development regulations or other applicable requirements of the comprehensive plan, subarea plan element of the comprehensive plan, planned action ordinance, or other local, state, or federal rules or laws; and

(d)(i) The city or county's applicable comprehensive plan was previously subjected to environmental analysis through an environmental impact statement under the requirements of this chapter prior to adoption; or

(ii) The city or county has prepared an environmental impact statement that considers the proposed use or density and intensity of use in the area proposed for an exemption under this section.

(2) Any categorical exemption adopted by a city or county under this section shall be subject to the rules of the department adopted according to RCW 43.21C.110(1)(a) that provide exceptions to the use of categorical exemptions adopted by the department.

NEW SECTION. **Sec. 11.** A new section is added to chapter 36.70A RCW to read as follows:

A city that adopts development regulations that are consistent with and implement this act and RCW 35A.21.430 or 35.21.683 shall be deemed in compliance with the requirements of RCW 36.70A.070(2)(d) until June 30, 2032.

NEW SECTION. **Sec. 12.** A new section is added to chapter 64.34 RCW to read as follows:

A declaration created after the effective date of this section and applicable to an area within a city subject to the middle housing requirements in section 3 of this act may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 13.** A new section is added to chapter 64.32 RCW to read as follows:

A declaration created after the effective date of this section and applicable to an association of apartment owners located within an area of a city subject to the middle housing requirements in section 3 of this act may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 14.** A new section is added to chapter 64.38 RCW to read as follows:

Governing documents of associations within cities subject to the middle housing requirements in section 3 of this act that are created after the effective date of this section may not actively or effectively prohibit the construction, development, or use of additional housing units as required in section 3 of this act.

NEW SECTION. **Sec. 15.** A new section is added to chapter 64.90 RCW to read as follows:

1 Declarations and governing documents of a common interest
2 community within cities subject to the middle housing requirements in
3 section 3 of this act that are created after the effective date of
4 this section may not actively or effectively prohibit the
5 construction, development, or use of additional housing units as
6 required in section 3 of this act.

7 NEW SECTION. **Sec. 16.** A new section is added to chapter 64.90
8 RCW to read as follows:

9 The department of commerce may establish by rule any standards or
10 procedures necessary to implement this act.

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